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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217154
Party	Defendant Janoskians LLC
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Signature	/Jason DeFrancesco/
Date	02/19/2015
Attachments	JO2M2CP.pdf(4369236 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial Nos. 86/085,785

For the respective mark: DIRTY PIG

Published in the Official Gazette March 4, 2014

NASTY PIG, INC,

Opposer,

Opposition No. 91217154

vs.

JANOSKIANS, LLC,

Applicant.

**JANOSKIANS LLC'S OPPOSITION TO OPPOSER'S
MOTION FOR ORDER RE APPLICANT'S DOCUMENT PRODUCTION**

Pursuant to Rule 43 of the Federal Rules of Civil Procedure and TBMP § 406, Applicant Janoskians LLC (Janoskian) hereby responds in opposition to Nasty Pig Inc.'s ("Opposer") Motion to for Order re Applicant's Document Production on the basis that Opposer should not be allowed to rewrite the rules or compel the Board to rule in its favor based on misleading information or any alleged inconvenience. In support of its Opposition, Janoskian provides the attached Declarations of Jason DeFrancesco ("*Decl. DeFran*"), Chris Swanson ("*Decl. Swan*") and Declaration of Jeremy Skaller ("*Decl. Skaller*") and further states,

BACKGROUND

Janoskian (a/k/a Just Another Name Of Silly Kids In Another Nation) originated from the efforts of a group of five young men from Australia, who beginning in 2011 at the ages of 15-18 drew world-wide fame and attention from original pranks they published on YouTube.

Decl. Skaller ¶ 2. Janoskian would soon become a business identity in the United States and

embark on expanding its name through branding for goods and services including a clothing line. *Id.*

Currently, Janoskian is a registered Delaware company, having business address in New York. *Id.* ¶ 2. Janoskian currently owns US Trademark Registration No. 4533375 (JANOSKIANS) for goods and services that include t-shirts and entertainment services, and also has another mark pending for clothing (DIRTY PIG) US Serial No. 86085785 — *the application which forms the basis of this instant proceeding. Id.* ¶ 3.

In efforts to help with its expansion and branding, Janoskian hired the Putnam Accessory Group, Corp. (“Putnam Group”) to provide services related to its DIRTY PIG brand, not the JANOSKIAN trademark. *Id.* ¶ 5. The Putnam Group is searchable on the Internet <<http://putnamaccessorygroup.com>>. It is a California corporation having a mailing address as 2133 E. 38th Street, Los Angeles, CA 90058 (while Los Angeles is the mailing address, based on zip code, the physical address is 2133 E. 38th Street, Vernon). *Decl. Swan* ¶ 1.

On July 2, 2014, Opposer brought the instant matter against Janoskian’s DIRTY PIG mark. On September 9, 2014 Steve Baker, counsel for Janoskian, e-mailed Scott Ceresia, Esq. (counsel for the Opposer) putting him on advanced notice of there being no intention by Janoskian “to alter or amend discovery procedures.” *Decl. DeFran* ¶4.

On September 10, 2014, Janoskian served Opposer with its request for documents asking Opposer to “...produce and permit [Janoskian] to inspect and copy the following documents and things, at the offices of Baker and Rannells, PA...or at some other location...” *Id.* ¶5. To the contrary, when Opposer served Janoskian its request for documents, it required Janoskian to produce documents at the offices of its counsel Cowan, Liebowitz & Latman, P.C. in New York.

Id. ¶6. Furthermore, in its own instructions, the **Opposer requires Janoskian to produce documents “as they are kept in the ordinary course of business...”** See *id.* Exhibit C, p. 6).

On December 9, 2014, Janoskian served its responses to the Request for Production, rejecting the directions to produce documents to Opposer’s counsel, and in doing so, stated that it would produce documents and things pursuant to 37 CFR § 2.120(d)(2),

“where they are normally kept during the normal course of business. For the most part, those documents and things are kept and located at Putnam Accessory Group, Inc. in Vernon, CA, and may be inspected and copied there, at Opposer’s expense, and upon proper notice at a mutually convenient time.”

Id. ¶7.

On December 17, 2014 Scott Ceresia, Esq. e-mailed counsel for Janoskian confirming receipt of the responses. *Id.* ¶8. In the e-mail, Mr. Ceresia never raised any issue with the form of production, and did not serve a deficiency letter. *Id.* Instead, he ambiguously stated that it would be “helpful to schedule a call regarding Applicant’s responses.” *Id.* Although Opposer would subsequently ask Janoskian to copy and deliver documents to it, Janoskian reiterated the position of Mr. Baker stated on September 29, 2014 and reiterated its response to Opposer’s request for production — that Janoskian would produce documents and things where they are normally kept during the normal course of business at the Putnam Group in Vernon, CA. *Id.* ¶11.

No communications have since been received by Opposer and neither Janoskian, the Putnam Group, nor the law offices of Baker and Rannells, PA have ever denied the Opposer (or its well-traveled firm) access to inspect and copy Janoskian records where they are normally kept during the normal course of business in Vernon, CA. *Id.* ¶14, 15. ACCORDINGLY, OPPOSER HAS NEVER MADE A GOOD FAITH ATTEMPT, AND ITS MOTION FOR AN EXCEPTION TO THE RULES SHOULD BE DENIED.

OPPOSER'S MOTION

On January 30, 2015, Opposer filed its Motion to Compel Janoskian to produce documents to its attorney's office in New York a demand made contrary to its original instructions, when **Opposer required Janoskian to produce documents "as they are kept in the ordinary course of business..."** See *id. Exhibit C*, p. 6).

Notwithstanding its previous instructions, Mr. Ceresia submits his declaration to essentially argue that it redacts its instructions and that Janoskian must agree to relent and waive its duties provided in 37 CFR § 2.120(d)(2). The problem with Mr. Ceresia's position is that he never sent Janoskian any deficiency letter, amended his instructions, or even attempted to go to The Putnam Group to inspect the documents (he merely argued that it was inconvenient). The instant motion is merely being brought to harass Janoskian as a last ditch effort for Opposer to stop the clock in light of its awareness that March 9, 2015 deadline was approaching. This should not disguise the fact that Opposer's well-travelled firm has failed to even try to go to Vernon to inspect the documents where they are and likewise failed to make a good-faith attempt prior to even bringing the instant motion.

In addition to the declaration by Mr. Ceresia, Opposer asserts a legal argument that improperly suggests it should have special consideration because (a) Janoskian is required to waive its obligation in view of an "identical" request (see *Opposer's Motion* p. 5, ¶7) or (b) because conformity is otherwise unduly burdensome as Opposer was not provided "with logistical information necessary for Opposer to carry out such inspection and copying at the offices in Vernon, California." *Id.* footnote 1.

ARGUMENT

Production is governed by 37 CFR § 2.120(d)(2). Janoskian is not required to go to copy responsive documents and then forward them to its adversary. According to 37 CFR § 2.120(d)(2), it is sufficient for a responding party to make documents available, at the place they are normally kept, for inspection and copying by the inquiring party. Opposer has refused to attempt to provide Janoskian any notice or suggestion of a time to inspect documents at the Putnam Group. Instead, it complains that it is a burden to conform so it simply files the instant motion. *Decl. DeFran* ¶12. This is unfortunate because it highlight the fact that the Opposer is solely to blame for the paucity of actual production, not Janoskian or its counsel. While the Board should deny Opposer's motion based alone on the Declaration of Mr. Ceresia (i.e., lack of good-faith) the Board should still deny the motion based on the fallible arguments as addresses herein; to wit,

1. Janoskain never waived its right to object to sending documents to Opposer's counsel in New York.

Janoskian never made a "prior reciprocal demand that Opposer produce its documents at the offices of Applicant's counsel in New Jersey." (*See Opposer's Motion*, p. 5 ¶4.) Janoskian's request for production of documents requests it be allowed to "inspect and copy" documents at its attorney's office or "at some other location mutually agreed upon." *Decl. DeFran* ¶5. While Opposer (located in New York) can allege it produced documents through its counsel (located in New York) this was convenient and by its own volition. This does not mean it required Janoskian to go to the Putnam Group and deliver the files to Opposer's counsel.

Nevertheless, in support of this "waiver" argument, Opposer relies on *Accord Sentrol, Inc. v. Sentex Sys.*, 231 U.S.P.Q. 666, 668 (T.T.A.B. 1986) and *Tektronix, Inc. v. Tek Assocs.*, 183 U.S.P.Q. 623, 623-24 (T.T.A.B. 1974) - neither case being relevant to the instant

proceeding. First, *Tektronix, Inc.* had nothing to do with the production of documents. And, as far as *Accord Sentrol, Inc.* is concerned, the Board noted that the parties “in effect” waived rights to object to discovery requests because the propounded requests were identical. See *id.* at 667 (“Applicant’s discovery requests are mere copies of the same requests earlier propounded by opposer.”) To the contrary, requests propounded by Janoksian (Nos. 1-31) in view of those propounded by Opposer (Nos. 1-34) are hardly identical copies.

2. Conforming to 37 CFR § 2.120(d)(2) is not “logistically arduous” for Opposer

Janoksian stated early in the proceeding (and has maintained) that it would produce documents and things where they are kept at the Putnam Group upon proper *notice at a mutually convenient time*. *Decl. DeFran* ¶7. Opposer has never provided Janoksian with any notice at all. *Id.* ¶15. *Decl. Swan* ¶12. *Decl. Skaller* ¶10.

Instead, Opposer paints a picture far from what is real and attempts to elucidate a “logistically arduous” argument that is somehow the fault of Janoksian, which is concerning because for one, the Putnam Accessory Group does not have a secret location and, two; Opposer never/ever suggested or proposed a mutually convenient time to inspect and copy documents.

Furthermore, while Opposer (i.e., its counsel) would allege conforming to the rules would be a burden, this burden more than likely is not disclosed to its prospective clients. *Decl. DeFran* ¶12, 13, 14. According to the website of Opposer’s counsel <<http://www.cll.com/main/measure-our-success/>> it measures success “by what we can achieve for you.” Such achievements include matters in California/ the 9th Judicial Circuit, such as,

Infringement Defense.

Successfully settled a patent infringement action involving the game play method and board apparatus of our client’s Chinese Revolution game. *James Games, Inc., v. Pressman Toy Corporation*, 8:13-CV-01925 (C.D. Cal. 2014).

Infringement Defense.

Successfully represented plaintiffs in this action seeking damages and injunctive relief for infringement of three U.S. patents on a method for relining and repairing existing pipelines. After a 4 week non jury trial, a judgment was entered in plaintiffs' favor awarding injunction and \$3.1 million in damages. Settled before appeal. *NuPipe, Inc., et al. v. J.F. Pacific Liners, Inc.*, No. 95 Civ. 1511 (N.D. Cal. 1998).

Infringement Claim

Obtained a jury verdict of \$3.1 million for the plaintiff in a trademark infringement action claiming that AMERICAN LONGEVITY for a nutritional supplement infringed LONGEVITY for competing products. *Longevity Network, Ltd. v. Wallach*, not reported (C.D. Cal. 2006). This was after the affirmance of an appeal from a successful cancellation proceeding in *Longevity Network, Ltd. v. Wallach*, 2004 TTAB 121 (T.T.A.B. 2004), *aff'd*, not reported (W.D. Cal. 2005).

Secondary Liability

Brief on behalf of Recording Industry Association of America and National Music Publishers Association urging reversal of lower court decision involving proper standard for imposing secondary liability in the Internet context. *Perfect 10 v. Google*, 487 F.3d 701 (9th Cir. 2007).

Display Right

Brief on behalf of American Society of Media Photographers, Inc., the Picture Archive Council of America, Inc., the British Association of Picture Libraries and Agencies, Stock Artists Alliance, Professional Photographers of America, the Graphic Artists Guild, the American Society of Picture Professionals and the National Press Photographers Association urging reversal of lower court decision involving scope of the public display right in the context of Internet transmissions, and second brief urging reconsideration en banc. *Perfect 10 v. Google*, 487 F.3d 701 (9th Cir. 2007).

Contributory and Vicarious Liability

Brief on behalf of 14 digital technology providers in support of affirming the district court's preliminary injunction against violation by Internet service of copyright rights of record companies and music publishers. *A & M Records, Inc. v. Napster*, 239 F.3d 1004 (9th Cir. 2001).

Fair Use

Brief on behalf of Computer and Business Equipment Manufacturers Assn., International Anticounterfeiting Coalition, Inc., Apple Computer, Inc., Autodesk, Inc., Computer Associates International, Inc., Digital Equipment Corp., Intel Corp., IBM Corp., Lotus Development Corp., WordPerfect Corp. and Xerox Corp.: applicability of fair use defense to intermediate copying of computer programming for reverse engineering. *Sega Enterprises Ltd. v. Accolade, Inc.*, 977 F.2d 1510 (9th Cir. 1993).

Furthermore, while Opposer cites 37 CFR 2.120(d)(2) as authority for the Board to order production upon motion, the examples it provides is incomparable to the instant facts. For example, Opposer cites *D.K. Jain d/b/a Luxor Pen Co. v. Ramparts, Inc.*, 49 U.S.P.Q.2d 1429, 1432 (T.T.A.B. 1998) and *Unicut Corp. v. Unicut, Inc.*, 220 U.S.P.Q. 1013, 1015 (T.T.A.B.

1983). *D.K. Jain* did not involve requests for production. Instead, when responding to Interrogatories, the Applicant invoked Rule 33(d). *Id.* The Board ordered Applicant to produce the referenced documents. Interrogatories are not at issue here.

In *Unicut Corp. v. Unicut, Inc.* the Board ordered respondent to produce copies due to the fact that there were 20 years' worth of records and respondent had no one available to assist petitioner at inspection. 220 U.S.P.Q. at 1014. Here, Janoskian has been in business for less than 2-years and to the contrary, Opposer does not allege Janoskian cannot or refused to present someone with knowledge, and California is within reach of its well-traveled firm.

3. OPPOSER REQUESTS A PHONE CONFERENCE TO RESOLVE THE ISSUE.

While Janoskain is not against meeting by phone, it appears that everything which needs to be said by the parties has been set forth in paper. It would appear to be further waste for the Board to attend to oral arguments when Opposer has failed to meet its burden and or good faith requirement. Notwithstanding, Janoskian agrees to meet at a date and time convenient for the Board and the Opposer however, in doing so, makes no representation that it waives 37 CFR § 2.120(d)(2).

WHEREFORE, Opposer merely makes the instant motion to harass Janoskian. Notwithstanding the fact that Opposer's counsel advertises and/or solicits business in California, and has made no effort to try to get documents that it requests, Janoskian has never stated it would not produce documents where they are maintained in California.

Just because Opposer never made any plans or attempts to arrange for an inspection, it should not be able to complain about the rule and get any special treatment because of deadlines. Therefore, contrary to the declaration of Scott Ceresia or the appended Motion, Opposer not only

fails to satisfy its good faith requirement, but fails to provide any reason why the Board should waive 37 CFR § 2.120(d)(2).

Dated: February 19, 2015

Respectfully submitted,

BAKER AND RANNELLS, P.A.
Attorneys for Opposer

By: /Jason DeFrancesco/
Jason DeFrancesco
575 Rte. 28, Ste. 102
Raritan, NJ 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the opposition to Nasty Pig Inc.'s ("Opposer") Motion to for Order re Applicant's Document Production has been served on Opposer c/o its counsel, by first class mail on this 19th day of February 2015, to,

Joel Karni Schmidt
COWAN LIEBOWITZ & LATMAN PC
1133 Avenue of The Americas
New York, NY 10036

/Jason DeFrancesco/
Jason DeFrancesco

DECLARATION OF JEREMY SKALLER:
(1) IN SUPPORT OF JANOSKIANS LLC'S OPPOSITION TO OPPOSER'S
MOTION TO CONSOLIDATE
&
(2) IN SUPPORT OF JANOSKIAN'S OPPOSITION TO OPPOSER'S MOTION TO
COMPEL PRODUCTION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial Nos. 86/085,785
For the respective mark: DIRTY PIG
Published in the Official Gazette March 4, 2014

NASTY PIG, INC,

Opposer,

vs.

JANOSKIANS, LLC,

Applicant.

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Opposition No. 91217154

**DECLARATION OF JEREMY SKALLER:
(1) IN SUPPORT OF JANOSKIANS LLC'S OPPOSITION TO OPPOSER'S
MOTION TO CONSOLIDATE
&
(2) IN SUPPORT OF JANOSKIAN'S OPPOSITION TO OPPOSER'S MOTION TO
COMPEL PRODUCTION**

Jeremy Skaller declares and says:

1. I am the manager of Janoskians, LLC ("Janoskian").
2. Janoskian (a/k/a Just Another Name Of Silly Kids In Another Nation) originated from the efforts of a group of five young men from Australia, who beginning in 2011 at the ages of 15-18 drew world-wide fame and attention from original pranks they published on YouTube. Janoskian would soon become a business identity in the United States and embark on expanding its name through branding for goods and services including a clothing line.
3. Currently, Janoskian is a limited liability company registered with the State of Delaware and has a business address at 209 East 31st Street, New York, NY 10016.

4. Janoskian currently owns US Trademark Registration No. 4533375 (JANOSKIANS) for goods and services that include t-shirts and entertainment services, and also has another mark pending for clothing (DIRTY PIG) US Serial No. 86085785 — *the application which forms the basis of this instant proceeding.*

5. In efforts to help with its expansion and branding, Janoskian hired the Putnam Accessory Group, Corp. (“Putnam Group”) to provide services related to its DIRTY PIG brand, not the JANOSKIAN trademark.

6. On April 21, 2014, Nasty Pig, Inc. sent Janoskian a cease and desist demanding it abandon the DIRTY PIG application in view of its alleged NASTY PIG mark.

7. I understand that Chris Swanson, Vice President of the Putnam Group, responded to that demand in attempt to compromise and or negotiate resolution and avoid the expense and burden in having to engage in a legal battle. I also understand that these sort of communications are protected by Federal Rule 408, and that they are not admissible and are not to be used as evidence.

8. I understand that Opposer and or its counsel violated this Rule by relying on the communication which is considered a prohibitive use. Janoskian does not waive FRE 408 and believe the communication in regards to settlement should not be given further attention.

9. Janoskian does not do business with Fitumi, and neither Fitumi nor the Putnam Group has any ownership interest in Janoskian.

10. The Putnam Group maintains documents and materials pertaining to the DIRTY PIG mark on behalf of Janoskian at its location in Vernon, California. The Putnam Group has been instructed by Janoskian to make these files available for inspection and copying by Nasty Pig, Inc. And, the files are available for Nasty Pig, Inc. to inspect.

11. Janoskian has never been noticed of any attempt by Nasty Pig, Inc. or its attorneys to ever have attempted any request to inspect its documents at the Putnam Group.

12. Through these proceedings, I have come to understand that Fitumi has a mark RAUNCHY PIG that has been reviewed by the USPTO, and which it did not find confusion with either the NASTY PIG or DIRTY PIG mark and allowed the mark to publish.

13. I understand that Nasty Pig, Inc. has since engaged in yet another legal battle over Fitumi's RAUNCHY PIG mark alleging that Fitumi perpetuated a fraud before the USPTO and also that RAUNCHY PIG is somehow confusingly similar to NASTY PIG.

14. While Janoskian has no interest in the proceeding regarding Fitumi's RAUNCHY PIG mark, I am aware that Nasty Pig, Inc. is currently asking the USPTO to join the proceeding against Fitumi with the instant proceeding against Janoskian. It is understood that a basis for the consolidation is the inadmissible communication subject to Rule 408.

15. Notwithstanding, Janoskian does not agree to be forced to join with Fitumi regarding a legal dispute as it fears it could irreparably harm its relationship with the Putnam Group. Furthermore, it does not wish to face the possibility of having to disclose and or waive confidences with Fitumi as this would irreparably harm its ability to do business. Additionally, it does not wish to have to raise arguments and or allegations adverse to Fitumi just to preserve its business interests.

16. Janoskian believes that the motion to compel production and the opposition against it, including the motion to consolidate is a calculated attempt by Nasty Pig, Inc. to harass and embarrass Janoskian with the sole purpose of negatively impacting its business for its own personal gain.

I HEREBY declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the Declaration herein presented is factual, true and correct.

Executed at Los Angeles, CA
on February 19, 2015.

Signed: _/Jeremy Skaller/

Jeremy Skaller

DECLARATION OF CHRIS SWANSON:
(1) IN SUPPORT OF JANOSKIANS LLC'S OPPOSITION TO OPPOSER'S
MOTION TO CONSOLIDATE
&
(2) IN SUPPORT OF JANOSKIAN'S OPPOSITION TO OPPOSER'S MOTION TO
COMPEL PRODUCTION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial Nos. 86/085,785
For the respective mark: DIRTY PIG
Published in the Official Gazette March 4, 2014

NASTY PIG, INC,)	
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Opposer,)	Opposition No. 91217154
)	
vs.)	
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JANOSKIANS, LLC,)	
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Applicant.)	
)	

**DECLARATION OF CHRIS SWANSON:
(1) IN SUPPORT OF JANOSKIANS LLC'S OPPOSITION TO OPPOSER'S
MOTION TO CONSOLIDATE
&
(2) IN SUPPORT OF JANOSKIAN'S OPPOSITION TO OPPOSER'S MOTION TO
COMPEL PRODUCTION**

Chris Swanson declares and says:

1. I am Vice President of the Putnam Accessory Group, Corp. (the "Putnam Group") an S corporation that is registered with the State of California having a mailing address at 2133 E. 38th Street, Los Angeles, CA 90058, which is a physical address in Vernon, CA.
2. I am also Operations Manager at Fitumi, LLC ("Fitumi"), a limited liability company registered with the State of California having an address at 2133 E. 38th Street, Los Angeles, CA 90058, which is a physical address in Vernon, CA.
3. Fitumi and the Putnam Group conduct business at 2133 E. 38th Street, Los Angeles, CA 90058, at a building owned by John Putnam.

4. Based on my position with the Putnam Group and Fitumi, I am knowledgeable of the operations of both businesses, whereby Fitumi is a holding company for property owned by John Putnam (managing member of Fitumi) such as real property and intellectual property including patents and trademarks; and the Putnam Group is an accessory design, product development, production and logistics company for private label and branded fashion. The Putnam Group has been contracted by Janoskians, LLC (“Janoskian”) to assist with its brand DIRTY PIG.

5. Fitumi does not conduct business with Janoskian and neither Fitumi nor the Putnam Group has any ownership of Janoskian. Furthermore, Fitumi and the Putnam Group among each, do not share financial books or property ownership, and are separate and distinct companies having separate and distinct purposes. Like Janoskian, Fitumi is merely a client of the Putnam Group.

6. The Putnam Group maintains documents and materials pertaining to the DIRTY PIG mark on behalf of Janoskian at its location in Vernon, California. As with all property of the Putnam Group’s clients, documents of each client are maintained separately.

7. Sometime around the end of April-beginning-of-May, 2014, I became aware of a demand sent from the company Nasty Pig, Inc. that alleged ownership of the mark NASTY PIG and demanded that the Putnam Group’s client, Janoskian, cease and desist from registering and or using its DIRTY PIG mark.

8. On or about May 13, 2014, I wrote a letter directly to Nasty Pig, Inc. with the clear purpose and intent to compromise and or negotiate resolution and avoid the expense and burden in having to engage in a legal battle.

9. It has since come to my attention that this communication protected by Federal Rule 408, was prohibitively use by Nasty Pig, Inc. in furtherance of an Opposition against Fitumi (later discussed) as well as in a motion to consolidate it with the instant Opposition against Janoskian.

10. At this point, I understand that Nasty Pig, Inc. would like the files that the Putnam Group maintains for its client, Janoskian.

11. The Putnam Group has been instructed by Janoskian to make the files available for inspection and copying by Nasty Pig, Inc. and the Putnam Group has never denied or objected to these instructions.

12. The files are available for Nasty Pig, Inc. to inspect, however the Putnam Group has never been noticed of any attempt by Nasty Pig, Inc. or its attorneys to ever have attempted any request to inspect.

13. On May 14, 2014, I filed for the trademark RAUNCHY PIG on behalf of Fitumi. The mark was not filed under the direction or authority of Janoskian (or the Putnam Group for that matter) as Fitumi does not need authorization from anyone with regards to its business as the RAUNCHY PIG mark is owned by Fitumi and no other.

14. Nevertheless, the RAUNCHY PIG mark was not filed with any intent or purpose by Fitumi as a means to compete with or be confused with Janoskian's DIRTY PIG mark particularly due to the fact the marks are different and the goods are different.

15. I understand that Fitumi's RAUNCHY PIG mark has been reviewed by the USPTO which did not find confusion with either the NASTY PIG or DIRTY PIG mark and allowed the mark to publish.

16. I understand that Nasty Pig, Inc. has since engaged in yet another legal battle over Fitumi's RAUNCHY PIG mark alleging that Fitumi perpetuated a fraud before the USPTO and also that RAUNCHY PIG is somehow confusingly similar to NASTY PIG.

17. While I reject the claims, I am aware that Nasty Pig, Inc. is currently asking the USPTO to join the proceeding against Fitumi with the proceeding against Janoskian. I also understand that Opposer has prohibitively used my communication protected by the Federal Rule 408 as evidence to consolidate these proceedings.

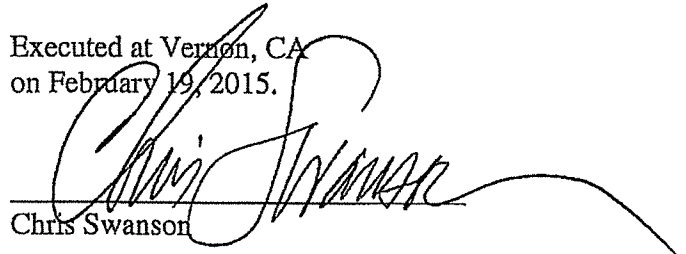
18. Fitumi does not agree to be forced to join with Janoskian regarding a legal dispute as it fears it could irreparably harm its relationship with the Putnam Group. Furthermore, it does not wish to face the possibility of having to disclose and or waive confidences with Janoskian as this would irreparably harm its ability to do business. Additionally, it does not wish to have to raise arguments and or allegations adverse to Janoskian just to preserve its business interests.

19. Fitumi believes that the motion to compel production and the opposition against it, including the motion to consolidate is a calculated attempt by Nasty Pig, Inc. to harass and embarrass Fitumi with the sole purpose of negatively impacting its business for its own personal gain.

20. Furthermore, I do not waive Rule 408 and believe my communication in regards to settlement should not be given further attention.

I HEREBY declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the Declaration herein presented is factual, true and correct.

Executed at Vernon, CA
on February 19, 2015.


Chris Swanson

**DECLARATION OF JASON L DEFRANCESCO IN SUPPORT OF
JANOSKIAN'S OPPOSITION TO OPPOSER'S MOTION TO COMPEL PRODUCTION
OF DOCUMENTS**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Applicant.

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Opposition No. 91217154

**DECLARATION OF JASON L DEFRANCESCO IN SUPPORT OF
JANOSKIAN'S OPPOSITION TO OPPOSER'S MOTION TO COMPEL PRODUCTION
OF DOCUMENTS**

Jason L DeFrancesco declares and says:

1. I am an attorney at law admitted to practice before the courts of New York, Florida and Washington, DC. My practice is generally limited to intellectual property.
2. I am an associate of the firm of Baker and Rannells PA. We maintain offices at 575 Route 28, Suite 102, Raritan, New Jersey. The firm and the undersigned represent the Applicant, JANOSKIANS, LLC ("Janoskian"), in intellectual property matters.
3. I make this declaration in support of Janoskian's Opposition to Opposer's Motion to Compel Production of Documents. This declaration is made upon personal knowledge of the facts set forth herein.
4. On September 29, 2014, pursuant to a meet and confer, Stephen L. Baker, attorney for Janoskian sent an e-mail to counsel for Opposer, Scott Ceresia, Esq. advising that

Janoskian has no intention to alter or amend discovery procedures. Attached, as *Exhibit A*, is a true and correct copy of the e-mail.

5. On September 10, 2014, Janoskian served Opposer with Applicant's First Request for Production of Documents (the "Request"). Attached, as *Exhibit B*, is a true and correct copy of the Request. The Request asks Opposer to "...produce and permit [Janoskian] to inspect and copy the following documents and things, at the offices of Baker and Rannells, PA...or at some other location...." *See id.*, p. 1.

6. Sometime shortly after October 10, 2014, Janoskian was served with Opposer's First Request for Production of Documents ("Opposer's Request"). Attached, as *Exhibit C*, is a true and correct copy of Opposer's Request. The Opposer's Request asks Janoskian to "...produce the following documents and things for inspection and copying at the offices of Cowan, Liebowitz & Latman, P.C....." *See id.*, p. 1.

7. On December 9, 2015, Janoskian fully responded to Opposer's Request (the "Response"). Attached, as *Exhibit D*, is a true and correct copy of the Response. In the Response, Janoskian asserted its objection to Opposer's Request, including instructions to produce documents at its lawyer's office and in doing so provided,

Applicant's only obligation pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34(b) of the Federal Rules of Civil Procedure is to produce documents and things where they are normally kept during the normal course of business. For the most part, those documents and things are kept and located at Putnam Accessory Group, Inc. in Vernon, CA, and may be inspected and copied there, at Opposer's expense, and upon proper notice at a mutually convenient date and time.

See id., p. 5, ¶ 8.

8. On December 17, 2014 I received an e-mail from Opposer’s counsel, Scott Ceresia, Esq., confirming receipt of the Response (including Janoskian’s responses to Opposer’s First Set of Interrogatories). In the e-mail, Mr. Ceresia never raised any issue with the Response, and did not serve a deficiency letter. He ambiguously stated that it would be “helpful to schedule a call regarding Applicant’s responses.” Attached, as *Exhibit E*, is a true and correct copy of the e-mail.

9. On January 6, 2015, *after the Holiday’s*, I replied to Mr. Ceresia’s request to speak on the phone and suggested January 8, 2015 at 4:00PM, which he agreed to. Attached, as *Exhibit F*, is a true and correct copy of the e-mail chain of communications.

10. On January 12, 2015, Mr. Ceresia sent me an e-mail requesting that I let him know “as soon as possible when [he] can expect to receive [Janoskain’s] responsive documents in accord with its discovery responses.” Attached, as *Exhibit G*, is a true and correct copy of the e-mail.

11. I have reviewed Mr. Ceresia’s declaration in support of Opposer’s Motion to compel and note that he documents two phone calls with me since sending me his January 12, 2015 e-mail. I agree to his recollection to the extent that I reiterated the position of Mr. Baker stated on September 29, 2014 (*supra* ¶ 4) and reiterated in Janoskian’s response to Opposer’s request for production; that Janoskian would produce documents and things where they are normally kept during the normal course of business at the Putnam Accessory Group, Inc. (the “Putnam Group”) in Vernon, CA (*See Declaration of Scott Ceresia*, ¶¶ 14, 15, and 17.)

12. I recall during the phone calls Mr. Ceresia’s displeasure with having to abide by the rules, and also recall a slurry of nonsensical questions about the Putnam Group that regarded things like the security of the building, if there was a code to get in, and so on. Alas, Mr. Ceresia

stated it was a burden to inspect documents where they are normally kept in California. *See generally Declaration of Scott Ceresia*, ¶ 16.

13. I have reviewed the website of Opposer's counsel <<http://www.cll.com/main/measure-our-success/>> and note that Cowan Liebowitz & Latman, PC boast attending to matters all over, including where the Putnam Group and Janoskian documents are located, for example, in the State of California and/or in the 9th Judicial Circuit, such as,

Infringement Defense.

Successfully settled a patent infringement action involving the game play method and board apparatus of our client's Chinese Revolution game. *James Games, Inc., v. Pressman Toy Corporation*, 8:13-CV-01925 (C.D. Cal. 2014).

Infringement Defense.

Successfully represented plaintiffs in this action seeking damages and injunctive relief for infringement of three U.S. patents on a method for relining and repairing existing pipelines. After a 4 week non jury trial, a judgment was entered in plaintiffs' favor awarding injunction and \$3.1 million in damages. Settled before appeal. *NuPipe, Inc., et al. v. J.F. Pacific Liners, Inc.*, No. 95 Civ. 1511 (N.D. Cal. 1998).

Infringement Claim

Obtained a jury verdict of \$3.1 million for the plaintiff in a trademark infringement action claiming that AMERICAN LONGEVITY for a nutritional supplement infringed LONGEVITY for competing products. *Longevity Network, Ltd. v. Wallach*, not reported (C.D. Cal. 2006). This was after the affirmance of an appeal from a successful cancellation proceeding in *Longevity Network, Ltd. v. Wallach*, 2004 TTAB 121 (T.T.A.B. 2004), *aff'd*, not reported (W.D. Cal. 2005).

Secondary Liability

Brief on behalf of Recording Industry Association of America and National Music Publishers Association urging reversal of lower court decision involving proper standard for imposing secondary liability in the Internet context. *Perfect 10 v. Google*, 487 F.3d 701 (9th Cir. 2007).

Display Right

Brief on behalf of American Society of Media Photographers, Inc., the Picture Archive Council of America, Inc., the British Association of Picture Libraries and Agencies, Stock Artists Alliance, Professional Photographers of America, the Graphic Artists Guild, the American Society of Picture Professionals and the National Press Photographers Association urging reversal of lower court decision involving scope of the public display right in the context of Internet transmissions, and second brief urging reconsideration en banc. *Perfect 10 v. Google*, 487 F.3d 701 (9th Cir. 2007).

Contributory and Vicarious Liability

Brief on behalf of 14 digital technology providers in support of affirming the district court's preliminary injunction against violation by Internet service of copyright rights of record companies and music publishers. *A & M Records, Inc. v. Napster*, 239 F.3d 1004 (9th Cir. 2001).

Fair Use

Brief on behalf of Computer and Business Equipment Manufacturers Assn., International Anticounterfeiting Coalition, Inc., Apple Computer, Inc., Autodesk, Inc., Computer Associates International, Inc., Digital Equipment Corp., Intel Corp., IBM Corp., Lotus Development Corp., WordPerfect Corp. and Xerox Corp.: applicability of fair use defense to intermediate copying of computer programming for reverse engineering. *Sega Enterprises Ltd. v. Accolade, Inc.*, 977 F.2d 1510 (9th Cir. 1993).

14. California is well-within Opposer's reach, at least as so it impresses upon prospective clients and the public. Notwithstanding, I never received a deficiency letter from the Opposer, and since my last phone call with Mr. Ceresia, I never received any communication about a proposed date or any effort otherwise to inspect and copy documents at the Putnam Group.

15. Neither Janoskian, the Putnam Group, nor the law offices of Baker and Rannells, PA have ever denied the Opposer (or its well-traveled firm) access to inspect and copy Janoskian records where they are normally kept during the normal course of business in Vernon, CA. ACCORDINGLY, OPPOSER HAS NEVER MADE A GOOD FAITH ATTEMPT, AND ITS MOTION FOR AN EXCEPTION TO THE RULES SHOULD BE DENIED.

I declare under the penalty of perjury that the foregoing is true and correct and that this Declaration was executed on February 19, 2015.

/Jason DeFrancesco/
Jason DeFrancesco

Exhibit A

From: Steve Baker
Sent: Tuesday, September 09, 2014 4:06 PM
To: 'Ceresia, Scott P.'
Cc: 'Schmidt, Joel'; 'Shimanoff, Eric J.'; K. Hnasko
Subject: RE: DIRTY PIG - Opposition No. 91217154

RULE 26 PRE

As you know, we are counsel to Janoskians LLC. The trademark board has set a deadline for the discovery conference of September 10, 2014 for Opposition No. 91217154.

As to the required discovery conference:

1. We understand your client's claims of priority and likelihood of confusion. I assume you understand our client's position as set forth in its answer. **I am not sure there is much to discuss, but am prepared to do so.**
2. As we are only concerned in this proceeding with the registration of our client's mark, the only settlement I would be prepared to recommend to Janoskians is that your client withdraw its opposition with prejudice.
3. We are not interested in mediation, arbitration or ACR.
4. I see no reason to alter or amend discovery procedures, except that I would be amenable to providing courtesy email copies of discovery requests.
5. We are satisfied with the Standard protective Order.

If you agree to the above, there may be no need for a discovery conference. In any event, I am available at 3pm tomorrow.

Steve Baker

From: Steve Baker
Sent: Tuesday, September 09, 2014 10:38 AM
To: 'Ceresia, Scott P.'
Cc: Schmidt, Joel; Shimanoff, Eric J.; K. Hnasko
Subject: RE: DIRTY PIG - Opposition No. 91217154

Yes, but will send an email later today addressing some discovery issues.

Also, please copy Kelly Hnasko on all correspondence related to this matter.

Steve

Stephen L. Baker



Baker and Rannells, PA

575 Route 28, Suite 102
Raritan, NJ 08869
Telephone: (908) 722-5640
Facsimile: (908) 725-7088
E-mail: s.baker@br-tmlaw.com

www.tmlawworldwide.com

This email is confidential and may be legally privileged. If you received it in error please notify us immediately. If you are not the intended recipient you should not copy it, disclose its contents to others, or use it for any purpose.

From: Ceresia, Scott P. [<mailto:SPC@cll.com>]
Sent: Tuesday, September 09, 2014 10:33 AM
To: Steve Baker
Cc: Schmidt, Joel; Shimanoff, Eric J.
Subject: Re: DIRTY PIG - Opposition No. 91217154

Mr. Baker,

Further to my email from last Thursday, are you available tomorrow afternoon to conduct the initial discovery conference in the above-referenced matter?

Thanks.

Regards,

Scott

Scott Ceresia, Esq.

Cowan, Liebowitz & Latman, P.C.

1133 Avenue of the Americas
New York, New York 10036-6799
t: (212) 790-9247 | f: (212) 575-0671

www.cll.com | spc@cll.com



From: Ceresia, Scott P.
Sent: Thursday, September 04, 2014 3:01 PM
To: 'Steve Baker'
Cc: Schmidt, Joel; Shimanoff, Eric J.
Subject: Re: DIRTY PIG - Opposition No. 91217154

Mr. Baker,

As you know, the deadline to hold the initial discovery conference in the above-referenced matter is next Wednesday, September 10th.

Are you free in the afternoon on the 10th to conduct the conference? Please confirm your availability.

Thanks.

Regards,

Scott

Scott Ceresia, Esq.

Cowan, Liebowitz & Latman, P.C.

1133 Avenue of the Americas
New York, New York 10036-6799
t: (212) 790-9247 | f: (212) 575-0671

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For more information please visit <http://www.mimecast.com>

Exhibit B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re: Serial No. 86/085,785
Filing Date: October 8, 2013
Mark: DIRTY PIG

NASTY PIG, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91217154
)	
JANOSKIANS LLC,)	
)	
Applicant.)	

**APPLICANT'S FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS**

Applicant, JANOSKIANS LLC ("Applicant"), pursuant to Rule 2.120 of the Trademark Rules of Practice, and Rule 34 of the Federal Rules of Civil Procedure, hereby requests NASTY PIG, INC. ("Opposer") to produce and permit Applicant to inspect and copy the following documents and things, at the offices of Baker and Rannells, PA, 575 Route 28, Suite 102, Raritan, NJ 08869, or at some other location mutually agreed upon, within (30) thirty days after receipt hereof, as identified according to following definitions and instructions.

DEFINITIONS AND INSTRUCTIONS

1. As used herein, the term "Opposer" means and refers to Opposer herein, each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.

2. As used herein, the term “Applicant” means and shall refer to Applicant herein, each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.

3. As used herein, the term “Person” as well as pronouns referring thereto shall include any business, legal or governmental entity or association, as well as natural persons.

4. As used herein, the term “Document” includes any tangible thing from or on which information can be stored, recorded, processed, transmitted, inscribed, or memorialized in any way by any means, regardless of technology or form.

5. With respect to each Document to which an objection as to production is made, state:

- a. The nature of the Document;
- b. The date of the Document;
- c. The name of the person(s) to whom the Document was addressed;
- d. The name of the person(s) who received such Document;
- e. The name of the person(s) who prepared or sent the Document;
- f. The general subject matter of the Document; and
- g. The specific grounds upon which the objection is made.

6. As used herein, the term “date” means the exact date, if known, and, if not known, the approximate date.

7. Any word written in the singular shall be construed as plural or vice-versa when necessary to facilitate a response to a request for production of a document or thing.

8. As used herein, the term “all” and “each” shall be construed as all and each to bring within the scope of the discovery request all documents and things that might otherwise be construed to be outside of its scope.

9. As used herein, the connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all documents and things that might otherwise be construed to be outside of its scope.

10. “Refer,” “relate” or “relating,” “regarding,” “concerning,” “reflecting” or “containing” shall mean directly or indirectly, in whole or in part, referring to, relating to, connected with, commenting on, discussing, impacting upon, affecting, responding to, explaining, showing, indicating, describing, analyzing, reflecting, evidencing or constituting.

11. As used herein, the term “Applicant’s Mark” means and shall refer to the Applicant’s mark DIRTY PIG, Application Serial No. 86085785.

12. As used herein, “Applicant’s Goods” shall mean the goods identified in application Ser. No. 86085785

13. As used herein, the term “Opposer’s Mark” means and shall refer to NASTY PIG, the mark which is the subject of Registration No. 2800386 and pending application Ser. No.: 86114145.

14. As used herein, “Opposer’s Goods” shall mean the goods set forth in Registration No. 2800386 and pending application Ser. No.: 86114145.

15. As used herein, Variations of Opposer’s Mark shall mean any third party mark comprised in whole or in part of “NASTY” or “PIG” or any of the following:

SOW
SWINE
BOAR
RAUNCHY
PIG PEN
BAD
ANGRY
PHILTHY
TRAIF
CHEATING
STINKY
STY
SLOPPY
WILD

REQUESTED DOCUMENTS AND THINGS

1. All documents identified in response to Applicant's First Set of Interrogatories.
2. All documents concerning Opposer's investigation, selection, adoption, creation and development of Opposer's Mark.
3. All documents concerning the prosecution, maintenance and assignment of Opposer's Mark, the subject of Registration No. 2800386, and any goodwill associated therewith.

4. All documents tending to demonstrate Opposer's bona fide intent to use Opposer's Mark on the goods which are identified pending application Ser. No.: 86114145.

5. All documents that supports the claims made by Opposer in the Notice of Opposition.

6. All documents which evidence Opposer's continued use of Opposer's Mark on Opposer's Goods in the United States from Opposer's first use date through the present in the United States.

7. All documents evidencing Opposer's date of first actual use of Opposer's Mark on Opposer's Goods.

8. A specimen or photograph of each of Opposer's Goods, including the packaging for the same, that has been, is being, or will be sold or offered using Opposer Mark from Opposer's first use date through the present in the United States.

9. All United States Patent and Trademark Office trademark search citations and common law search citations discovered during Opposer's investigations into the availability of Opposer's Mark.

10. All invoices, contracts, agreements, purchase orders, and/or purchase receipts which reflect or evidence Opposer's offering of Opposer's Goods featuring Opposer's Mark in the United States from Opposer's first use date through the present in the United States.

11. All sales reports which record, refer to, or relate to, Opposer's sales of Opposer's Goods under Opposer's Mark in the United States from Opposer's first use date through the present in the United States.

12. All documents which record, refer to, or relate to Opposer's advertising and/or promotional expenditures for Opposer's Goods under Opposer's Mark from Opposer's first use date through the present in the United States. including, without limitation, the advertising medium, the dates of any such advertisements or promotions, and the cost associated with such advertisements and/or promotions.

13. All promotional materials, media plans, marketing plans and advertisements evidencing Opposer's use of Opposer's Mark on or in association with Opposer's Goods from Opposer's first use date through the present in the United States.

14. All documents concerning business plans for Opposer's Goods associated with Opposer's Mark in the United States from Opposer's first use date through the present in the United States.

15. All documents which refer to, or relate to, Opposer's knowledge and/or awareness of the use by Applicant of Applicant's Mark on or in connection with Applicant's Goods.

16. All documents which record, refer to, or relate to Opposer's knowledge and/or awareness of the use and/or registration of third party Variations of Opposer's Mark for any goods or services in the United States.

17. All documents which record, refer to, or relate to Opposer's knowledge and/or awareness of the use and/or registration of third party Variations of Opposer's Mark for any goods or services which have priority over Opposer's Mark in the United States.

18. All documents concerning any survey, test survey, informal survey, consumer questionnaire, consumer study questionnaire, market analysis, market research, investigation or other inquiry conducted by or on behalf of Opposer or of which Opposer

has become aware that refers or relates to Opposer, Opposer's Marks, Applicant or Applicant's Mark.

19. All documents concerning the geographic areas in which Opposer's Goods featuring Opposer's Marks are offered for sale or sold, or intended to be offered for sale or sold in the United States.

20. All agreements, licenses, contracts, consents to use, correspondence or other documents concerning or authorizing use of Opposer's Marks or Variations of Opposer's Marks by a third party.

21. All documents concerning or identifying the customers to whom Opposer's Goods are promoted or to whom Opposer intends to promote Opposer's Services.

22. All documents concerning purchasers or intended purchasers or users of Opposer's Goods offered in association with Opposer's Marks.

23. All documents concerning Opposer's total sales on an annual basis since 2010 of Opposer's Goods featuring Opposer's Marks in the United States.

24. All documents concerning Opposer's gross income derived on an annual basis since 2010 from the sale of Opposer's Goods featuring Opposer's Mark in the United States.

25. Copies of all newspaper, magazine, newsletters, trade journal and other articles concerning Opposer's Goods.

26. Copies of all advertisements, press releases, brochures, catalogs, newspapers, magazine and trade articles, and other promotional materials or drafts thereof containing or bearing Opposer's Marks or used or intended to be used to promote Opposer's Goods in the United States.

27. All documents referring to any trade shows in which Opposer's Goods featuring Opposer's Marks were advertised and promoted.

28. All documents concerning any demand letters, administrative proceeding, or civil actions in the U.S. involving Opposer's Marks and/or Variations of Opposer's Mark.

29. All documents in Opposer's possession or control that refer or relate to Applicant or Applicant's Mark.

30. Each document which concerns any experts who has been retained or specially employed by Opposer and any facts known or opinions held by any such experts regarding any aspect of this proceeding.

31. All statements, opinions and/or reports of any expert obtained by Opposer or any person acting for or on behalf of Opposer regarding any of the issues in this opposition proceeding.

32. For each expert whose opinion may be relied upon in this proceeding, produce each document which concerns: (i) any opinions that may be presented at trial; (ii) the reasons for any such opinions; (iii) any data or information considered by the witness in forming the opinions; (iv) any exhibits used in support of or summarizing the opinions; (v) the compensation being paid to the witness, and (vi) any cases which the witness has testified at trial or by deposition.

33. All documents concerning each instance in which any person has been in any way confused, mistaken or deceived as to the origin or sponsorship of any product or service which is sold or offered for sale by or on behalf of Opposer using Opposer's Marks.

34. All documents concerning any communications between Opposer, on the one hand, and any individual or entity, on the other hand, concerning Applicant, Applicant's Mark, and/or Opposer's Marks.

35. All documents that refer or relate to correspondence between Opposer and Applicant without limitation.

36. All documents that refer or relate to the management and protection of the Opposer's Marks, including watch notices received by Opposer.

37. All documents that refer or relate to efforts and investment in the growth of consumer recognition of the Opposer's Marks.

38. All documents that refer or relate to the typical consumers of goods offered under the Opposer's Mark.

39. All documents that refer or relate to the meaning of NASTY.

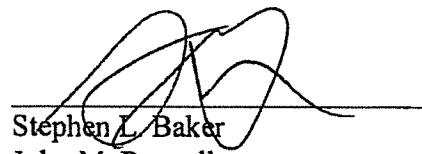
40. All documents that refer or relate to the meaning of DIRTY.

41. All documents, other than those produced to any of the foregoing requests, upon which Opposer intends to rely in connection with this opposition proceeding.

Dated: September 10, 2014

BAKER AND RANNELLS, PA

By:

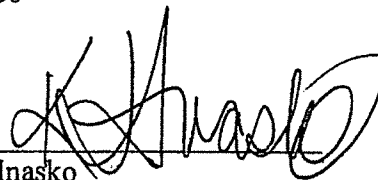


Stephen L. Baker
John M. Rannells
Attorneys for Applicant
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing was served on Opposer by first class mail this 10th day of September 2014:

Joel Kami Schmidt
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036



Kelly Hnasko

Exhibit C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 86/085,785

Filed: October 8, 2013

Published in the Official Gazette of March 4, 2014

-----		X	
NASTY PIG, INC.,		:	
	Opposer,	:	Opposition No. 91217154
v.		:	
JANOSKIANS LLC,		:	
	Applicant.	:	
-----		X	

**OPPOSER'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT**

Pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure and 37 C.F.R.

§ 2.120, Opposer Nasty Pig, Inc. ("Opposer") requests that Applicant Janoskians, LLC ("Applicant") answer under oath the following interrogatories and produce the following documents and things for inspection and copying at the offices of Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036 within 30 days after service hereof. These interrogatories and requests are deemed to be continuing, so as to require prompt supplemental interrogatory answers and production of additional documents should Applicant obtain additional responsive information or documents between the time the answers are served and the time of the final hearing of this opposition proceeding.



DEFINITIONS AND INSTRUCTIONS

A. The term “Applicant” means Janoskians, LLC, and all parent, subsidiary, affiliated, related, predecessor and/or successor entities, and divisions, and all officers, directors, members, employees, partners, agents and/or representatives thereof.

B. The term “Opposer” means Nasty Pig, Inc., and all parent, subsidiary, affiliated, related, predecessor and/or successor entities, and divisions, and all officers, directors, members, employees, partners, agents and/or representatives thereof.

C. The term “Fitumi” means Fitumi, LLC, and all parent, subsidiary, affiliated, related, predecessor and/or successor entities, and divisions, and all officers, directors, members, employees, partners, agents and/or representatives thereof, including, without limitation, John Putnam and Chris Swanson.

D. The term “Putnam Accessory Group” means Putnam Accessory Group, and all parent, subsidiary, affiliated, related, predecessor and/or successor entities, and divisions, including without limitation, Putnam Sourcing Group, Inc., Snap Straps Inc., Crash The Party, Inc., and California Coast Accessories, and all officers, directors, members, employees, partners, agents and/or representatives thereof, including, without limitation, John Putnam and Chris Swanson.

E. The term “Applicant’s Mark” shall refer to the DIRTY PIG mark as represented in Application Serial No. 86/085,785 and opposed herein and any variations of said mark used or intended to be used by Applicant, alone or in connection with any other words, letters and/or designs.

D. The term “Opposer’s NASTY PIG Mark” shall refer to Opposer’s mark comprising or containing the words “NASTY PIG,” alone or with other word, letter and/or design elements, including, without limitation, the marks covered in the registrations and applications set forth in paragraphs 2 and 3 of the Notice of Opposition in this proceeding.

E. The term “commerce” means commerce subject to regulation by Congress, as defined in 15 U.S.C. §1127.

F. As used herein, the terms “entity” and “person” include natural persons, governmental entities, organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals that has the purpose of conducting or, in fact, conducts business.

G. The term “document” shall be given the broadest possible scope under Fed. R. Civ. P. 34 and includes, but is not limited to, all writings, correspondence, memoranda, handwritten notes, drafts, invoices, contracts, purchase orders, letters, checks, receipts, books, pamphlets, flyers, advertisements, web pages, publications, stickers, posters, catalogs, labels, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, layouts, tear sheets, magnetic recording tapes, microfilms, computer printouts, e-mail, work sheets, and files from any personal computer, notebook or laptop computer, file server, minicomputer, mainframe computer or any other storage means by which information is retained in retrievable form, including files that are still on any storage media, but that are identified as “erased but recoverable,” and all other materials, whether printed, typewritten, handwritten, recorded or reproduced by a mechanical or electronic process.

H. The term “identify,” when used in connection with a natural person or persons, requires Applicant to state the person’s full name and last known business and residential addresses, telephone number and e-mail address.

I. The term “identify” when used in connection with a document, requires Applicant to:

(i) Furnish the name or title, date and general description (e.g., letter, memorandum, etc.) of the document, the name and address of the person from whom the document originated, the name and address of the persons to whom the document was addressed or delivered, and the names and addresses of all persons to whom copies of the document were sent; and

(ii) State whether Applicant is in possession of the original of the document or a copy thereof and, if Applicant is not in possession of the original or a copy, furnish the name and address of the custodian of the original or a copy; and

(iii) Furnish a general description of the subject matter to which the document(s) pertains.

J. The term “identify,” when used in connection with a company, organization or other business entity, requires Applicant to state the name, address, and phone number of the company, organization or other business entity.

K. The term “concerning” means referring to, relating to, embodying, connected with, commenting on, responding to, showing, describing, analyzing or constituting.

L. The singular and plural forms are used herein interchangeably, as are the masculine and feminine forms and the present and past tenses, and such terms should be

construed as necessary to bring within the scope of the interrogatory/document request all documents and information which might otherwise be construed to be outside its scope.

M. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the interrogatory/document request all documents and information which might otherwise be construed to be outside its scope.

N. If any information or document called for in any interrogatory or request is withheld in whole or in part by reason of a claim of attorney-client privilege or any other claim of immunity from discovery, then, at the time the information or document is to be produced, a list is to be furnished identifying any such information or document withheld together with the following information: date and title of the document; name and job title of each author, writer or sender of the document; name and job title of each recipient, addressee or other person to whom the original or any copy of the document was sent or furnished; if Applicant contends that an author or recipient of the document is an attorney for purposes of claiming privilege or immunity from discovery, identify the State Bar of which he or she was a member at the time of the communication in question; the general subject matter of the information or document withheld; the basis for the claim of privilege or immunity from discovery; and the interrogatory or request to which the information or document is responsive.

O. In the event that any document called for by this request has been destroyed, lost, discarded or otherwise disposed of, identify any such document as completely as possible, including, without limitation, the date of disposal, manner of disposal, reason for disposal, person authorizing the disposal and person disposing of the document.

P. Documents shall be produced as they are kept in the ordinary course of business or shall be organized and labeled to correspond to the document request to which they are responsive.

{The remainder of this Page 6 through the top of page 13 is intentionally omitted by Jason DeFrancesco, as it pertains to Interrogatories}

DOCUMENT REQUESTS

Request No. 1:

All documents concerning Applicant's conception, creation, design, clearance, selection, and/or adoption of Applicant's Mark.

Request No. 2:

All documents concerning the intended meaning or connotation of Applicant's Mark.

Request No. 3:

Specimens of each of Applicant's Products/Services bearing or displaying Applicant's Mark.

Request No. 4:

Representative samples of labels, hangtags, tags, product packages, package inserts or other devices which bear Applicant's Mark, and which have been used or are intended to be used by Applicant and/or its licensees.

Request No. 5:

Representative samples of point-of-sale materials, circulars, flyers, posters, stickers, sales sheets, leaflets, brochures, catalogs, signs, price lists, on-line or email advertisements, print

advertisements, radio or television advertisements, or other advertising materials or promotional items which bear Applicant's Mark, and which have been used or are intended to be used by Applicant and/or its licensees.

Request No. 6:

All documents concerning any trademark searches or other searches, opinions, investigations, analyses or studies conducted or reviewed by or on behalf of Applicant concerning Applicant's Mark.

Request No. 7:

Documents sufficient to identify: (a) the date of first use of Applicant's Mark; (b) the date of first use of Applicant's Mark in commerce in connection with each of Applicant's Products/Services; (c) the geographic area(s) of use of Applicant's Mark in connection with each of Applicant's Products/Services; (d) the actual or intended channels of trade for goods or services sold or rendered or intended to be sold or rendered in connection with Applicant's Mark; (e) the products or services sold, distributed or rendered under Applicant's Mark; (f) the types or categories of all consumers to whom goods or services have been sold, distributed, offered, or rendered under Applicant's Mark; (g) the annual amount of sales (in dollars and units), if any, made under Applicant's Mark for each year from the date of first use to the present; and (h) the annual amount of revenue, if any, that Applicant has received in connection with Applicant's Products/Services offered in connection with Applicant's Mark, for each year from the date of first use to the present.

Request No. 8:

Documents sufficient to identify the total annual gross sales, by units and/or dollars, of Applicant's Products/Services in the United States or in commerce with the United States, from

the date of first use of Applicant's Mark to the present.

Request No. 9:

Representative samples of advertising, marketing and promotional materials used or intended to be used in connection with Applicant's Mark, including but not limited to, any media plans, public relations materials, press kits and correspondence with advertising agencies, public relations firms, media planners, graphic designers, web site designers or any other such entities in the advertising and promotional field.

Request No. 10:

Documents sufficient to identify the amount of money expended by Applicant in advertising and promoting Applicant's Mark and/or Applicant's Products/Services in the United States or in commerce with the United States for each year from the date of first use to the present.

Request No. 11:

Documents sufficient to identify each trade show, convention, exposition or conference at which Applicant's Products/Services bearing Applicant's Mark have been displayed, advertised, promoted, offered for sale or sold.

Request No. 12:

All documents concerning any authorization, license, assignment, grant, conveyance or other transfer from any third party to Applicant concerning the right to use Applicant's Mark, or to sell Applicant's Products/Services bearing Applicant's Mark.

Request No. 13:

All documents concerning Applicant's authorization, license, assignment, grant, conveyance or other transfer (or proposed authorization, license, assignment, grant, conveyance

or other transfer) relating to Applicant's Mark from or on behalf of Applicant to any third party, including, but not limited to, all license agreements.

Request No. 14:

All documents concerning the relationship between Applicant and Fitumi, including, but not limited to, (i) all licenses, assignments or other agreements between Applicant and Fitumi with respect to Applicant's Mark or any other marks comprising or consisting of the terms "NASTY" or "PIG"; and (ii) any attempts by Applicant or Fitumi to register any other marks comprising or consisting of the terms "NASTY" or "PIG."

Request No. 15:

All documents concerning the relationship between Applicant and Putnam Accessory Group, including, but not limited to, (i) all licenses, assignments or other agreements between Applicant and Putnam Accessory Group with respect to Applicant's Mark or any other marks comprising or consisting of the terms "NASTY" or "PIG"; and (ii) any attempts by Applicant or Putnam Accessory Group to register any other marks comprising or consisting of the terms "NASTY" or "PIG."

Request No. 16:

Documents sufficient to identify each web site, web auction, web hosting, web listing, web posting, or web page (whether owned by Applicant or third parties), including its Internet address, on or through which Applicant's Mark and/or Applicant's Product/Services have been, are currently being or are intended to be promoted, advertised, displayed, offered for sale, sold or otherwise distributed.

Request No. 17:

All documents concerning any objections, claims, demands or actions lodged or filed

against the use or proposed use of Applicant's Mark, including without limitation, cease and desist letters, complaints, letters of protest and/or Notices of Opposition.

Request No. 18:

All documents concerning Opposer, Opposer's NASTY PIG Mark, or any goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer.

Request No. 19:

All documents concerning Applicant's knowledge of Opposer, Opposer's NASTY PIG Mark, and/or any goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer or under license from Opposer in connection with Opposer's NASTY PIG Mark prior to:

- a) October 8, 2013, when Applicant filed Application Serial No. 86/085,785.
- b) Any use by Applicant of Applicant's Mark in connection with any goods or services.

Request No. 20:

All documents concerning any market research, focus groups, surveys or other investigation made or commissioned by or on behalf of Applicant concerning Applicant's Mark, Applicant's Products/Services, Opposer's NASTY PIG Mark, or any goods or services advertised, promoted, offered for sale, sold, licensed or rendered by Opposer.

Request No. 21:

All documents concerning any instances suggesting or reflecting any confusion on the part of any member of the public between Opposer and Applicant and/or their respective marks and or goods or services, including, without limitation, documents referring to or evidencing misdirected mail, e-mails, telephone calls, orders or inquiries suggesting or reflecting a belief by

any person that Applicant is licensed, endorsed or sponsored by, or is a sponsor of, or is associated or related in any way with or to Opposer, or that the products or services sold, offered for sale or otherwise distributed, or intended to be sold, offered for sale or otherwise distributed, by Applicant under Applicant's Mark are licensed, endorsed or sponsored by or associated or related in any way with or to Opposer and/or Opposer's NASTY PIG Mark.

Request No. 22:

All documents concerning the actual or intended channels of trade for goods or services sold or rendered or intended to be sold or rendered in connection with Applicant's Mark.

Request No. 23:

All documents, including communications and correspondence, Applicant has received from or transmitted to the United States Patent and Trademark Office and/or any State Trademark Office concerning or relating to the application to register or registration of Applicant's Mark.

Request No. 24:

All documents, including without limitation, business plans, marketing plans, memos, correspondence or draft proposals of any kind, concerning Applicant's bona fide intent to use Applicant's Mark in connection with each and every good identified in International Class 25 in Application Serial No. 86/085,785 prior to or as of October 8, 2013.

Request No. 25:

All documents concerning any steps or actions taken by or on behalf of Applicant to use Applicant's Mark in the United States or in commerce with the United States.

Request No. 26:

All documents concerning any third party uses, registrations or applications for

registration of any marks or purported marks containing or comprising the term “PIG” in connection with products or services identical or similar to any of Applicant’s Products/Services or Opposer’s goods or services in the United States or U.S. commerce.

Request No. 27:

All documents concerning or supporting the second affirmative defense asserted by Applicant in its answer in this proceeding that “the Notice of Opposition is barred by the [sic] acquiescence and laches.”

Request No. 28:

All documents concerning or supporting the third affirmative defense asserted by Applicant in its answer in this proceeding that “the Notice of Opposition is barred by the doctrine of waiver and estoppel.”

Request No. 29:

All documents concerning or supporting the fourth affirmative defense asserted by Applicant in its answer in this proceeding that “the Notice of Opposition is barred by Opposer’s failure to challenge the use of third party marks comprised in whole or in part of the term ‘pig’ on related goods and services by unrelated third parties.”

Request No. 30:

All documents concerning or supporting the fifth affirmative defense asserted by Applicant in its answer in this proceeding that “Applicant’s mark DIRTY PIG falls far outside the scope of protection to which Opposer’s mark may extend.”

Request No. 31:

All documents concerning or supporting the sixth affirmative defense asserted by Applicant in its answer in this proceeding that “there are many 100’s of third party ‘pig’ and ‘pig’

combination marks of record in the USPTO, thus rendering the 'pig' element of Opposer's mark to be weak."

Request No. 32:

All documents concerning or supporting the seventh affirmative defense asserted by Applicant in its answer in this proceeding that "there were as many as 185 live third party live [sic] 'pig' and 'pig' combination marks of record in relevant classes in the USPTO at the time Opposer filed the application that resulted in Reg. No. 2800386, which Opposer admitted were not confusingly similar to Opposer's mark when it stated under oath in the application '... to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.'"

Request No. 33:

All documents concerning or supporting the eighth affirmative defense asserted by Applicant in its answer in this proceeding that "except for the within opposition, Opposer has never challenged a 'pig' or 'pig' combination mark before the TTAB, thus acquiescing in the ongoing and continued weakening of its alleged mark."

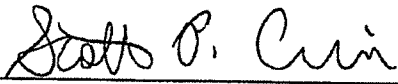
Request No. 34:

All documents identified or otherwise relied on or referred to by Applicant in answering Opposer's First Set of Interrogatories above.

Dated: New York, New York
October 10, 2014

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

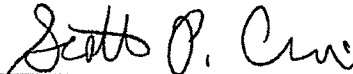
By: 

Joel Karni Schmidt
Eric J. Shimanoff
Scott P. Ceresia
1133 Avenue of the Americas
New York, NY 10036-6799
(212) 790-9200

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT to be sent via first class, postage paid mail to Applicant's Attorney and Correspondent of Record, Stephen L. Baker, Esq., Baker and Rannells, P.A., 575 Route 28, Raritan, New Jersey 08869-1354.

Dated: New York, New York
October 10, 2014



Scott P. Ceresia

Exhibit D

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial Nos. 86/085,785
For the respective mark: DIRTY PIG
Published in the Official Gazette March 4, 2014

NASTY PIG, INC.,

· Opposer,

Opposition No. 91217154

vs.

JANOSKIANS, LLC.,

Applicant.

APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and 37 C.F.R. §2.120, Applicant Janoskians, LLC's hereby responds to Nasty Pig, Inc. ("Opposer") First Request for Production of Documents as follows:

PRELIMINARY STATEMENT

Each of the responses that follow, and every part thereof, are based upon and reflect the knowledge, information or belief of Applicant at the present state of this proceeding.

Accordingly, Applicant reserves the right, without assuming the obligation, to supplement or amend these responses to reflect such other knowledge, information or belief which it may hereafter acquire or discover.

GENERAL OBJECTIONS AND OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. The following general objections are incorporated by reference in Applicant's response to each and every Document Request below.
2. The specific responses set forth below are for the purposes of discovery only, and Applicant neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility or use at trial of any information, documents or writing produced, identified or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such response.
3. Applicant expressly reserves its right to rely, at any time including trial, upon subsequently discovered information, documents or things, or information, documents or things omitted from the specific response set forth below as a result of mistake, oversight or inadvertence.
4. The specific responses set forth below are based upon Applicant's interpretation of the language used in the Document Requests, and Applicant reserves its right to amend or to supplement its responses in the event Opposer asserts an interpretation that differs from Applicant's interpretation.
5. By making these responses, Applicant does not concede it is in possession of any information, document or thing responsive to any particular Document Request or that any response given or document or thing produced is relevant to this action.
6. Subject to and without waiving the general and specific responses and objections set forth herein, Applicant will provide herewith information that Applicant has located and reviewed to date. Applicant will continue to provide responsive information as such is

discovered. Applicant's failure to object to a particular Interrogatory or Document Request or willingness to provide responsive information pursuant to an Interrogatory or Document Request is not, and shall not be construed as, an admission of the relevance, or admissibility into evidence, of any such information, nor does it constitute a representation that any such information in fact exists.

7. Because Applicant may not have discovered all the information that is possibly within the scope of the Document Requests, Applicant expressly reserves its right to amend or to supplement these Responses and Objections with any additional information that emerges through discovery or otherwise.

8. Applicant objects to the Document Requests to the extent that they require the disclosure of information or the production of documents protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the joint defense privilege or any other applicable privilege or immunities. Applicant responds to the Document Requests on the condition that the inadvertent response regarding information covered by such privilege, rule or doctrine does not waive any of Applicant's right to assert such privilege, rule or doctrine and the Applicant may withdraw and request the return of any such response, document or thing inadvertently made as soon as identified.

9. Applicant objects to the Document Requests to the extent that they seek information, documents or things that is/are not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.

10. Applicant objects to the Document Requests to the extent that they are vague, ambiguous, or overbroad and therefore not susceptible to a response as propounded.

11. To the extent that any interrogatory requests information concerning, or a request for documents that purports to require Applicant to identify or produce a sample of each different document used for any particular category, or to identify or produce all documents or persons, or to "describe in detail", Applicant objects to the same as being overly broad, overly burdensome, and beyond what is required of Applicant under the applicable rules. Accordingly, to the extent that Applicant agrees to produce documents or identify documents or persons in response to any such requests, such response shall be limited to representative documents and/or information.

12. Applicant objects to the definition of "Applicant" on the ground that it improperly encompasses Applicant's attorneys.

13. Applicant objects to the Document Requests to the extent that they exceed the requirements of the Federal Rules of Civil Procedure of the Trademark Rules of Practice.

14. Applicant objects to the Document Requests to the extent that they require Applicant to undertake any investigation to ascertain information, documents or things not presently within its possession, custody or control on the grounds of undue burden and because information from other sources is equally available to Opposer.

15. Applicant objects to the Document Requests to the extent that they require Applicant to undertake such an extensive review that such Document Requests are unduly burdensome and harassing.

16. Applicant objects to the Document Requests to the extent that Opposer seeks the residential addresses of individuals, on the grounds that disclosure of such information impinges on the privacy interest of such individuals.

17. Applicant objects to the definition of "Applicant" on the grounds that it a) is vague and ambiguous as to the meaning of "affiliated"; and b) calls for conjecture and speculation. A

meaningful response cannot be framed. Applicant also objects to the definition to the extent it includes each of Applicant's "parent, subsidiary, affiliated, related, predecessor and/or successor entities, and divisions, and all officers, directors, members, employees, partners, agents and/or representatives thereof" as being overly broad and unduly burdensome to comply with. Applicant is under no obligation provide information or documents not within Applicant's custody or control or to inquire into or investigate the knowledge of or to interview every officer, director, employee, consultant, member, manager, representative, partner, corporate parent, subsidiary, division, successors in interest, associate, affiliate, attorney, accountant and agent in responding to these document requests. Nor can counsel be deemed the equivalent of Applicant as suggested by the definition.

18. Applicant's only obligation pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34(b) of the Federal Rules of Civil Procedure is to produce documents and things where they are normally kept during the normal course of business. For the most part, those documents and things are kept and located at Putnam Accessory Group, Inc. in Vernon, CA, and may be inspected and copied there, at Opposer's expense, and upon proper notice at a mutually convenient date and time.

Request No. 1:

All documents concerning Applicant's conception, creation, design, clearance, selection, and/or adoption of Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No.2:

All documents concerning the intended meaning or connotation of Applicant's Mark.

Response: Applicant objects to this request to the extent it seeks documents that are not within Applicant's possession, custody or control. Applicant also objects to this request as vague and ambiguous. Applicant further objects to this request to the extent it seeks production of documents that are publicly available and/or equally accessible to Opposer. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No.3:

Specimens of each of Applicant's Products/Services bearing or displaying Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying a mutually convenient date and time.

Request No.4:

Representative samples of labels, hangtags, tags, product packages, package inserts or other devices which bear Applicant's Mark, and which have been used or are intended to be used by Applicant and/or its licensees.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No.5:

Representative samples of point-of-sale materials, circulars, flyers, posters, stickers, sales sheets, leaflets, brochures, catalogs, signs, price lists, on-line or email advertisements, print advertisements, radio or television advertisements, or other advertising materials or promotional items which bear Applicant's Mark, and which have been used or are intended to be used by Applicant and/or its licensees.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request as duplicative, in-part, of Request 4. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 6:

All documents concerning any trademark searches or other searches, opinions, investigations, analyses or studies conducted or reviewed by or on behalf of Applicant concerning Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist

and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time. Limited however to any citations that may have been disclosed in any search that may have been conducted.

Request No.7:

Documents sufficient to identify: (a) the date of first use of Applicant's Mark; (b) the date of first use of Applicant's Mark in commerce in connection with each of Applicant's Products/Services; (c) the geographic area(s) of use of Applicant's Mark in connection with each of Applicant's Products/Services; (d) the actual or intended channels of trade for goods or services sold or rendered or intended to be sold or rendered in connection with Applicant's Mark; (e) the products or services sold, distributed or rendered under Applicant's Mark; (f) the types or categories of all consumers to whom goods or services have been sold, distributed, offered, or rendered under Applicant's Mark; (g) the annual amount of sales (in dollars and units), if any, made under Applicant's Mark for each year from the date of first use to the present; and (h) the annual amount of revenue, if any, that Applicant has received in connection with Applicant's Products/Services offered in connection with Applicant's Mark, for each year from the date of first use to the present.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No.8:

Documents sufficient to identify the total annual gross sales, by units and/or dollars, of Applicant's Products/Services in the United States or in commerce with the United States, from the date of first use of Applicant's Mark to the present.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 9:

Representative samples of advertising, marketing and promotional materials used or intended to be used in connection with Applicant's Mark, including but not limited to, any media plans, public relations materials, press kits and correspondence with advertising agencies, public relations firms, media planners, graphic designers, web site designers or any other such entities in the advertising and promotional field.

Response: Applicant objects to this request as overly broad and unduly burdensome. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without

waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 10:

Documents sufficient to identify the amount of money expended by Applicant in advertising and promoting Applicant's Mark and/or Applicant's Products/Services in the United States or in commerce with the United States for each year from the date of first use to the present.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 11:

Documents sufficient to identify each trade show, convention, exposition or conference at which Applicant's Products/Services bearing Applicant's Mark have been displayed, advertised, promoted, offered for sale or sold.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not

reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 12:

All documents concerning any authorization, license, assignment, grant, conveyance or other transfer from any third party to Applicant concerning the right to use Applicant's Mark, or to sell Applicant's Products/Services bearing Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 13:

All documents concerning Applicant's authorization, license, assignment, grant, conveyance or other transfer (or proposed authorization, license, assignment, grant, conveyance or other transfer) relating to Applicant's Mark from or on behalf of Applicant to any third party, including, but not limited to, all license agreements.

Response: Applicant objects to this request as overly broad and unduly burdensome.

Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 14:

All documents concerning the relationship between Applicant and Fitumi, including, but not limited to, (i) all licenses, assignments or other agreements between Applicant and Fitumi with respect to Applicant's Mark or any other marks comprising or consisting of the terms "NASTY" or "PIG"; and (ii) any attempts by Applicant or Fitumi to register any other marks comprising or consisting of the terms "NASTY" or "PIG."

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects because the request is improper as it asks Applicant to produce materials customarily in the exclusive custody and possession of another party, not the Applicant. Accordingly, Opposer is attempting to avoid having to subpoena a third party by commanding Applicant to get documents and materials for it, which is improper. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are

available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 15:

All documents concerning the relationship between Applicant and Putnam Accessory Group, including, but not limited to, (i) all licenses, assignments or other agreements between Applicant and Putnam Accessory Group with respect to Applicant's Mark or any other marks comprising or consisting of the terms "NASTY" or "PIG"; and (ii) any attempts by Applicant or Putnam Accessory Group to register any other marks comprising or consisting of the terms "NASTY" or "PIG."

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects because the request is improper as it asks Applicant to produce materials customarily in the exclusive custody and possession of another party, not the Applicant. Accordingly, Opposer is attempting to avoid having to subpoena a third party by commanding Applicant to get documents and materials for it, which is improper. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 16:

Documents sufficient to identify each web site, web auction, web hosting, web listing, web posting, or web page (whether owned by Applicant or third parties), including its Internet address, on or through which Applicant's Mark and/or Applicant's Product/Services have been, are currently being or are intended to be promoted, advertised, displayed, offered for sale, sold or otherwise distributed.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 17:

All documents concerning any objections, claims, demands or actions lodged or filed against the use or proposed use of Applicant's Mark, including without limitation, cease and desist letters, complaints, letters of protest and/or Notices of Opposition.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as

reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 18:

All documents concerning Opposer, Opposer's NASTY PIG Mark, or any goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence and or that which are in the exclusive possession, custody and control of Opposer. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 19:

All documents concerning Applicant's knowledge of Opposer, Opposer's NASTY PIG Mark, and/or any goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer or under license from Opposer in connection with Opposer's NASTY PIG Mark prior to:

- a) October 8, 2013, when Applicant filed Application Serial No. 86/085,785.
- b) Any use by Applicant of Applicant's Mark in connection with any goods or services.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 20:

All documents concerning any market research, focus groups, surveys or other investigation made or commissioned by or on behalf of Applicant concerning Applicant's Mark, Applicant's Products/Services, Opposer's NASTY PIG Mark, or any goods or services advertised, promoted, offered for sale, sold, licensed or rendered by Opposer.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are

available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 21:

All documents concerning any instances suggesting or reflecting any confusion on the part of any member of the public between Opposer and Applicant and/or their respective marks and or goods or services, including, without limitation, documents referring to or evidencing misdirected mail, e-mails, telephone calls, orders or inquiries suggesting or reflecting a belief by any person that Applicant is licensed, endorsed or sponsored by, or is a sponsor of, or is associated or related in any way with or to Opposer, or that the products or services sold, offered for sale or otherwise distributed, or intended to be sold, offered for sale or otherwise distributed, by Applicant under Applicant's Mark are licensed, endorsed or sponsored by or associated or related in any way with or to Opposer and/or Opposer's NASTY PIG Mark.

Response: Opposer objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 22:

All documents concerning the actual or intended channels of trade for goods or services sold or rendered or intended to be sold or rendered in connection with Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 23:

All documents, including communications and correspondence, Applicant has received from or transmitted to the United States Patent and Trademark Office and/or any State Trademark Office concerning or relating to the application to register or registration of Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, the request is harassing as it calls for documents and materials readily available in the public domain and easily accessible to Opposer. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 24:

All documents, including without limitation, business plans, marketing plans, memos, correspondence or draft proposals of any kind, concerning Applicant's bona fide intent to use Applicant's Mark in connection with each and every good identified in International Class 25 in Application Serial No. 86/085,785 prior to or as of October 8, 2013.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 25:

All documents concerning any steps or actions taken by or on behalf of Applicant to use Applicant's Mark in the United States or in commerce with the United States.

Response: Applicant objects to this request as overly broad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of

admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 26:

All documents concerning any third party uses, registrations or applications for registration of any marks or purported marks containing or comprising the term "PIG" in connection with products or services identical or similar to any of Applicant's Products/Services or Opposer's goods or services in the United States or U.S. commerce.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 27:

All documents concerning or supporting the second affirmative defense asserted by Applicant in its answer in this proceeding that "the Notice of Opposition is barred by the [sic] acquiescence and laches."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 28:

All documents concerning or supporting the third affirmative defense asserted by Applicant in its answer in this proceeding that "the Notice of Opposition is barred by the doctrine of waiver and estoppel."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject

to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 29:

All documents concerning or supporting the fourth affirmative defense asserted by Applicant in its answer in this proceeding that "the Notice of Opposition is barred by Opposer's failure to challenge the use of third party marks comprised in whole or in part of the term 'pig' on related goods and services by unrelated third parties."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 30:

All documents concerning or supporting the fifth affirmative defense asserted by Applicant in its answer in this proceeding that "Applicant's mark DIRTY PIG falls far outside the scope of protection to which Opposer's mark may extend."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or easily accessible by Opposer by searching TESS. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 31:

All documents concerning or supporting the sixth affirmative defense asserted by Applicant in its answer in this proceeding that "there are many 100's of third party 'pig' and 'pig' combination marks of record in the USPTO, thus rendering the 'pig' element of Opposer's mark to be weak."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this

request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 32:

All documents concerning or supporting the seventh affirmative defense asserted by Applicant in its answer in this proceeding that "there were as many as 185 live third party live [sic] 'pig' and 'pig' combination marks of record in relevant classes in the USPTO at the time Opposer filed the application that resulted in Reg. No. 2800386, which Opposer admitted were not confusingly similar to Opposer's mark when it stated under oath in the application' ... to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant or are in the exclusive custody and control of Opposer. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist

and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 33:

All documents concerning or supporting the eighth affirmative defense asserted by Applicant in its answer in this proceeding that "except for the within opposition, Opposer has never challenged a 'pig' or 'pig' combination mark before the TTAB, thus acquiescing in the ongoing and continued weakening of its alleged mark."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or easily accessible by Opposer by searching TTAB. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 34:

All documents identified or otherwise relied on or referred to by Applicant in answering Opposer's First Set of Interrogatories above.

Response: Applicant objects to the Request as ambiguous, moot, impracticable and or not defined as Applicant only responds in objection to the referenced interrogatories. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Dated: December 9, 2014

Respectfully submitted,

BAKER AND RANNELLS, P.A.
Attorneys for Opposer

By: Jason DeFrancesco
Jason DeFrancesco
575 Rte. 28, Ste. 102
Raritan, NJ 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the Applicant's Response to Opposer's First Set of Request for Production of Documents and Things has been served on Opposer c/o its counsel, by first class mail on this 9th day of December 2014, to,

Joel Kami Schmidt
COWAN LIEBOWITZ & LATMAN PC
1133 Avenue of The Americas
New York, NY 10036

/Jason DeFrancesco/
Jason DeFrancesco

Exhibit E

Jason L. DeFrancesco

From: Ceresia, Scott P. <SPC@cll.com>
Sent: Wednesday, December 17, 2014 3:24 PM
To: Jason L. DeFrancesco
Cc: Steve Baker; Schmidt, Joel; Shimanoff, Eric J.
Subject: Re: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Mr. DeFrancesco,

We are in receipt of Applicant's written responses to Opposer's First Set of Interrogatories and First Set of Requests for Production in the above-referenced matter.

We believe it would be helpful to schedule a call regarding Applicant's responses. Are you available this week to discuss?

Regards,
Scott

Scott Ceresia, Esq.

Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, New York 10036-6799
t: (212) 790-9247 | f: (212) 575-0671
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Exhibit F

Jason L. DeFrancesco

From: Ceresia, Scott P. <SPC@cjl.com>
Sent: Tuesday, January 06, 2015 7:04 PM
To: Jason L. DeFrancesco
Cc: Steve Baker; Schmidt, Joel; Shimanoff, Eric J.
Subject: Re: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Jason,

Yes, that works. I will give you a ring then.

Best,
Scott

From: Jason L. DeFrancesco [<mailto:JLD@br-tmlaw.com>]
Sent: Tuesday, January 06, 2015 06:49 PM Eastern Standard Time
To: Ceresia, Scott P.
Cc: Steve Baker <S.Baker@br-tmlaw.com>; Schmidt, Joel; Shimanoff, Eric J.
Subject: RE: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Scott,

I am available Thursday in the afternoon. Would 4:00 EST work for you?

Thanks,
Jason

From: Ceresia, Scott P. [<mailto:SPC@cjl.com>]
Sent: Tuesday, January 06, 2015 10:41 AM
To: Jason L. DeFrancesco
Cc: Steve Baker; Schmidt, Joel; Shimanoff, Eric J.
Subject: Re: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Jason,

Further to my voicemail, please let me know if you are available for a call this week to discuss Applicant's written discovery responses in the above-referenced matter.

Thank you.

Regards,
Scott

Scott Ceresia, Esq.
Cowan, Liebowitz & Latman, P.C.

1133 Avenue of the Americas
New York, New York 10036-6799
t: (212) 790-9247 | f: (212) 575-0671
www.cll.com | spc@cll.com



From: Ceresia, Scott P.
Sent: Wednesday, December 17, 2014 3:24 PM
To: 'jld@br-tnlaw.com'
Cc: 'Steve Baker'; Schmidt, Joel; Shimanoff, Eric J.
Subject: Re: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Mr. DeFrancesco,

We are in receipt of Applicant's written responses to Opposer's First Set of Interrogatories and First Set of Requests for Production in the above-referenced matter.

We believe it would be helpful to schedule a call regarding Applicant's responses. Are you available this week to discuss?

Regards,
Scott

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Exhibit G

Jason L. DeFrancesco

From: Ceresia, Scott P. <SPC@cll.com>
Sent: Monday, January 12, 2015 4:07 PM
To: Jason L. DeFrancesco
Cc: Steve Baker; Schmidt, Joel; Shimanoff, Eric J.
Subject: Re: DIRTY PIG - Opposition No. 91217154 - Opposer's amended interrogatories
Attachments: DIRTY PIG - Opposer_s Amended Interrogatories.pdf

Jason,

Further to our telephone conversation from last week, please see the attached courtesy copy of Opposer's Amended First Set of Interrogatories. A hard copy of the foregoing is being served via first class mail.

As I noted during our call, Applicant's written responses stating that it would produce documents responsive to Opposer's document requests were served over a month ago on December 9th. Accordingly, please let us know as soon as possible when we can expect to receive Applicant's responsive documents in accord with its discovery responses.

Regards,
Scott

Scott Ceresia, Esq.
Cowan, Liebowitz & Latman, P.C.
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New York, New York 10036-6799
t: (212) 790-9247 | f: (212) 575-0671
www.cll.com | spc@cll.com



From: Ceresia, Scott P.
Sent: Thursday, January 08, 2015 4:03 PM
To: 'Jason L. DeFrancesco'
Cc: Steve Baker; Schmidt, Joel; Shimanoff, Eric J.
Subject: RE: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Jason,

I just tried calling your number but got your voicemail. Let me know if you are still available to speak.

Thanks,
Scott

Scott Ceresia, Esq.
Cowan, Liebowitz & Latman, P.C.

1133 Avenue of the Americas
New York, New York 10036-6799
t: (212) 790-9247 | f: (212) 575-0671
www.cll.com | spc@cll.com



From: Jason L. DeFrancesco [<mailto:JLD@br-tmlaw.com>]
Sent: Tuesday, January 06, 2015 6:49 PM
To: Ceresia, Scott P.
Cc: Steve Baker; Schmidt, Joel; Shimanoff, Eric J.
Subject: RE: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Scott,

I am available Thursday in the afternoon. Would 4:00 EST work for you?

Thanks,
Jason

From: Ceresia, Scott P. [<mailto:SPC@cll.com>]
Sent: Tuesday, January 06, 2015 10:41 AM
To: Jason L. DeFrancesco
Cc: Steve Baker; Schmidt, Joel; Shimanoff, Eric J.
Subject: Re: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Jason,

Further to my voicemail, please let me know if you are available for a call this week to discuss Applicant's written discovery responses in the above-referenced matter.

Thank you.

Regards,
Scott

Scott Ceresia, Esq.
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, New York 10036-6799
t: (212) 790-9247 | f: (212) 575-0671
www.cll.com | spc@cll.com



From: Ceresia, Scott P.
Sent: Wednesday, December 17, 2014 3:24 PM
To: 'jld@br-tmlaw.com'

Cc: 'Steve Baker'; Schmidt, Joel; Shimanoff, Eric J.

Subject: Re: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Mr. DeFrancesco,

We are in receipt of Applicant's written responses to Opposer's First Set of Interrogatories and First Set of Requests for Production in the above-referenced matter.

We believe it would be helpful to schedule a call regarding Applicant's responses. Are you available this week to discuss?

Regards,
Scott

Scott Ceresia, Esq.

Cowan, Liebowitz & Latman, P.C.

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